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No. 71-320

Supreme Court, U.S.
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In the

Supreme Court of the United States

OCTOBER TERM, 1971

AMPEX CORPORATION,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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STATUTE:

National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C. 151, *et seq.*):

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

No.

AMPEX CORPORATION,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Ampex Corporation, by its attorneys, Gerald S. Patterson and Harry Sangerman, petitions for a writ of certiorari to review the judgment of the Court of Appeals for the Seventh Circuit entered in this case on June 14, 1971.

OPINIONS BELOW

The opinion of the Court of Appeals (App., *infra*. pp. 1a) is reported at 442 F.2d 82 (CA7, 1971). The Board's decision and order are reported at 168 NLRB 742.

JURISDICTION

The judgment of the Court of Appeals was entered on June 14, 1971 (App., *infra*, p. 8a). Jurisdiction of this Court is invoked under 28 U.S.C. 1254(1) and Section 10(e) of the National Labor Relations Act, as amended, 29 U.S.C. 160(e).

QUESTION PRESENTED

Whether groups of employees which meet with their employer to discuss items of mutual interest, including matters relating to employment, constitute a "labor organization" within the meaning of Section 2(5) of the National Labor Relations Act even though such employees do not represent fellow employees in the meetings.

STATUTE INVOLVED

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C. 151, *et. seq.*) are as follows:

> "Sec. 2(5). The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."
>
> "Sec. 8(a). It shall be an unfair practice for an employer—
>
> (2) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided,* That subject to rules and regulations made and published by the Board pursuant to section 6, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;"
>
> "Sec. 9(a). Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collec-

tive bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: *Provided,* That any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect: *Provided further,* That the bargaining representative has been given opportunity to be present at such adjustment."

STATEMENT OF THE CASE

I. THE FACTS

In February, 1966, Petitioner (hereinafter referred to as "Ampex" or "the Company") initiated a Communications Committee (hereinafter referred to as the "Committee") for all personnel at its Arthur Avenue location in Elk Grove Village, Illinois. The Arthur Avenue facility is the only Ampex plant involved in this proceeding. The Committee was designed to provide a means whereby each individual employed at Arthur Avenue, including management personnel, could present and discuss his own personal views and make suggestions about efficiency and business matters in general. The Committee also was designed to be an employee safety committee as required by the Company's insurance carrier. Safety problems are discussed at the meetings, and the insurance carrier recognizes the Committee as a safety committee. The evidence established, and the Board so found, that no known union activity was occurring at Ampex at the time of the initiation of the Committee, and union considerations did not enter into the decision to go forward with it. The Board further found that Ampex did not recognize the Committee as the

bargaining representative of the employees nor did the Company ever engage in bargaining negotiations with the Committee.

The Committee exists without any formal operating structure. It has no officers, no bylaws, no financial resources of its own, no affiliation with any outside organization—union or otherwise—nor is it affiliated with any organization which bargains collectively for employees. Furthermore, there is no provision made for participants to represent other employees, and, in fact, all personnel attending do so as individuals. People from all segments or levels of the business participate in the meetings, and persons attending the meetings include office girls, secretaries, typists, technicians, engineers, accountants, supervisory senior engineers, production employees, production supervisors, operations manager, plant manager, and industrial relations personnel.

The Company attempts to provide each individual employed at Arthur Avenue with an opportunity to attend at least one meeting. This is accomplished by a method of random selection of personnel according to geographical area or level of business. Each geographical area has a roster of potential participants, each of whose name is given a certain number. The names are not in alphabetical order. Each month one employee who attended the previous meeting is asked only to choose a number with respect to each geographical area, and the number on the roster corresponding to the number chosen determines which person will attend from the particular area. Generally, until there is a full rotation of all personnel, no individual serves more than once since the idea is to get everybody to participate.

After participants are selected, notices of who is to attend the meeting are placed on the bulletin boards about two weeks prior to the meeting. Any person who refuses to attend is not required to do so.

The meetings generally last as long as discussion continues. Participants are free to discuss and make suggestions with respect to the Company's entire business operation, including matters relating generally to employment. However, participants are not free to attempt to resolve purely personal grievances since such matters are referred for resolution to the Company's grievance procedure. Minutes of the meetings are kept and placed on the bulletin board. Participants are not docked for time spent at the meetings.

There was no evidence that the Company's employees protested or were dissatisfied with the operation of the Committee. Nor was any evidence presented that the accomplishments of the Committee were in derogation of the rights of the Company employees or anything but beneficial to them.

II. THE BOARD'S CONCLUSIONS AND ORDER

The Board found that the Committee is a labor organization within the meaning of Section 2(5) of the Act and that the Company violated Section 8(a)(2) of the Act by dominating and interfering with the administration of the Committee and by contributing support thereto. Based on these findings the Board ordered the Company to cease and desist from dominating, interfering with and supporting the Committee and to disestablish it.

III. THE DECISION OF THE COURT OF APPEALS

The court below granted enforcement of the Board's order with a slight modification not pertinent to this petition. The court held that the statutory definition of "labor organization" is broad and that while the Committee itself might not be a labor organization in the ordinary sense of the term, the statute reaches 'any . . . plan, in which employees participate and which exists for the purpose, . . . in part, of dealing with employers concerning grievances . . . wages, rates of pay, hours of employment, or conditions of work.' (App., *infra*, p. 2a)

REASONS FOR GRANTING THE WRIT

For all practical purposes, the holding of the Board and the court below eliminates face-to-face communication between non-union employers and their employees. While, in all due candor, the Seventh Circuit's opinion is a further extension of a long line of Board and appellate court cases striking down employee committees, the decision below represents an unwarranted and pernicious distortion of this Court's holding in *NLRB* v. *Cabot Carbon Co.*, 360 U.S. 203 (1959).

The decision below, when stripped of its legalisms and viewed in the practical world of labor relations, states essentially that unless a company is unionized the employer cannot meet with his employees to discuss matters relating to conditions of employment. Rather, the non-union employer must establish his personnel policies and correct the problems on the minds of his employees through uneducated guesswork at best and blind ignorance at worst. How incredible it is that a statute painstakingly designed to foster industrial accord could be interpreted to require a throwback to the old days when employer was master and employee was servant and never the twain did meet.

It will do your petitioner little good to cite cases in its behalf since virtually all of the precedent is on the other side. However, there is one distinguishing feature in this case which is worthy of this Court's attention and which gives this Court an opportunity to correct one of the most retrogressive conditions now imposed on employers and employees. This feature simply is the fact that the participants in the Committee's monthly meetings were selected at random each month so that all Ampex personnel ultimately would participate and that the participants were not given representative status but rather attended the meetings as individuals.[1]

The fact that Congress did not intend to eliminate all face-to-face communication between an employer and groups of employees is evident from the provisions of Sections 8(a)(2) and 9(a) of the Act. Thus, the proviso to Section 8(a)(2) states that subject to the Board's rule-making authority an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay. Yet notwithstanding the absence of any such published Board rules, the decision below prohibits Ampex from conferring with its employees during working hours. Furthermore, the proviso to Section 9(a) states that any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted without the intervention of a bargaining representative.

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[1] c.f. *NLRB* v. *Cabot Carbon Co., supra.; NLRB* v. *Grand Foundries, Inc.* 362 F.2d 702 (CA8, 1966); *Powers Regulator Co.* v. *NLRB*, 355 F.2d 506 (CA7, 1966); *NLRB* v. *Western Reserve Telephone Co.*, 323 F.2d 564 (CA6, 1963); *NLRB* v. *Thompson Ramo Woolridge, Inc.*, 305 F.2d 807 (CA7, 1962).

The language in the Section 8(a)(2) and Section 9(a) provisos is readily reconcilable with the prohibition against an employer's domination and support of a labor organization by the simple deduction that not all groups of employees which meet with employer representatives are labor organizations. This is evident from the language of this Court in *NLRB* v. *Cabot Carbon Co., supra.*, a case which involved a highly formalized employee representation committee.

It is apparent from the *Cabot Carbon* decision that the vice in employer-dominated committees is not that the committees are comprised of employees, but rather that the employees on the committees purport to represent their fellow employees in the discussion of conditions of employment. Thus, in explaining the proviso to Section 9(a) the Court drew the distinction between employee groups which act as individuals and employee groups which act as representatives:

> "The amendment to §9(a) does not say that an employer may form or maintain an employee committee for the purpose of 'dealing with' the employer, *on behalf of employees,* concerning grievances. On the contrary the amendment to §9(a) simply provides, in substance, that any individual employee or group of employees shall have the right personally to present their own grievances to their employer, and to have such grievances adjusted, without the intervention of any bargaining representative, as long as the adjustment is not inconsistent with the terms of any collective bargaining contract then in effect, provided that the bargaining representative, if there is one, has been given an opportunity to be present. It is thus evident that there is nothing in the amendment of §9(a) that authorizes an employer to engage in 'dealing with' an employer-dominated 'labor organization' *as the representative of his employees* concerning their grievances." (360 U.S. 203, 217-218; Emphasis supplied)

The Committee does not represent employees at Ampex nor was it ever intended to act as an employee representative. Furthermore, the court below made no reference to employee representation on the part of the Committee but rather intimated that the "plan" itself, whether or not a representation plan, constitutes a labor organization.

Accordingly, the decision below, if upheld, eliminates any practical method by which the non-union employer can achieve meaningful communication with its employees. Obviously, where, as in the instant case, the employer desires to meet with all of his employees without creating an independent bargaining group, the employer must take the initiative in calling meetings, providing space, compensating employees and providing secretarial help. Consequently, if the assembly of employees itself is a "labor organization", there always will be an element of employer support.

Aside from eliminating generally any means of face-to-face communication between employer and employee in the non-union plant, the breadth of the decision below poses specific harmful effects on practices which have been accepted for many years as good labor relations. For example, it literally wipes out virtually every safety committee in non-union plants—a fact which will be extremely distressing to the framers of the new Occupational Safety and Health Act of 1970 (P.L. 91-596, 91st Cong., Dec. 29, 1970, eff. Apr. 28, 1971) which places great emphasis on the development between the employer and employee of safety programs in the plant.

This much-neglected area in the administration of the National Labor Relations Act needs review by this Court, and the Board and the courts below must be given guidance so as to bring them within the realm of present day sensibility.

CONCLUSION

For the foregoing reasons, this petition for a writ of certiorari should be granted.

Respectfully submitted,

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August 1971.

APPENDIX

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

SEPTEMBER TERM, 1970 SEPTEMBER SESSION, 1970

No. 18181
NATIONAL LABOR RELATIONS BOARD,
Petitioner,
v.
AMPEX CORPORATION,
Respondent.

Application for Enforcement of an Order of the National Labor Relations Board.

April 22, 1971

Before FAIRCHILD, CUMMINGS and PELL, *Circuit Judges.*

FAIRCHILD, *Circuit Judge.* The NLRB found that Ampex Corporation engaged in an 8(a)(2) unfair labor practice by dominating and interfering with the administration of a labor organization and contributing support to it, and 8(a)(3) and 8(a)(1) unfair labor practices by discharging Betten to discourage union membership and discharging Earnest and Ebel to discourage both union membership and other participation in concerted activities for mutual aid or protection.

The board adopted the trial examiner's decision and recommendations after making certain modifications and corrections.[1] Portions of the decision relate to charges which were dismissed and need not be reviewed. As to

[1] 168 N.L.R.B. No. 96.

the parts under review. Ampex challenges certain inferences and legal conclusions, but not the recitation of the basic facts. We deem it unnecessary to restate them here.

1. *Communications Committee as a labor organization dominated and supported by the employer.*

Ampex emphasizes the undisputed facts that the committee had no formal organization structure, that employees who were to attend a meeting were chosen at random from among groups of employees, that participation was rotated so that ordinarily no employee participated a second time until all others in his group had participated, that there was a separate grievance procedure in which the committee was not involved, and that the matters discussed at committee meetings ranged widely beyond the subjects concerning which employers and labor organizations ordinarily deal. Ampex likens the committee mechanism to a suggestion box, made less impersonal, and suggests that it was a channel of communication and a means of bringing "the monolithic corporation into relevant contact with its people."

We might well be persuaded that this particular mechanism was not a labor organization in the ordinary sense of the term. The statutory definition, however, is very broad. It reaches "any . . . plan, in which employees participate and which exists for the purpose, . . . in part, of dealing with employers concerning grievances, . . . wages, rates of pay, hours of employment, or conditions of work."[2]

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[2] 29 U.S.C. §152(5). The entire definition reads: "The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

The statute has been broadly construed, both with respect to absence of formal organization[3] and the type of interchange between the parties which may be deemed "dealing."[4]

There was ample evidence that the committee meetings often involved matters in some of the fields referred to in the statutory definition and resulted in action upon them by management. The inference, drawn by the examiner and the board, that this "dealing" was part of the purpose of the committee mechanism was reasonable.

Ampex next challenges the finding that it dominated, interfered with and contributed support to the committee.

It would be very difficult, however, to find that Ampex did not dominate and contribute support to the committee. Everything necessary for its functioning was done by management except for its attendance of employees selected for each meeting by the system devised by management. There is nothing in the record to suggest that the procedure would continue if it were left up to the employees.

Of course the committee mechanism was first set up more than six months before the charge was filed, so that the separate act of formation could no longer be proceeded against as an unfair labor practice. The fact that management wholly created it, however, may properly be considered to the extent that fact sheds light on whether it had any independence of management during the limitations period.[5] During the limitations period management decided when a meeting would be held. The committee had no function other than the meetings, there

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[3] *Pacemaker Corp.* v. *National Labor Relations Board* (7th Cir., 1958), 260 F2d 880, 883.

[4] *NLRB* v. *Cabot Carbon Co.* (1959), 360 U.S. 203, 213, 79 SCt. 1015 3 LEd2d 1175.

[5] *Local No. 1424, Internat. Machinists* v. *N.L.R.B.* (1960), 362 U.S. 411, 416, 80 SCt. 822, 4 LEd2d 832.

was no continuity in membership from meeting to meeting, and the employees who were to attend were selected by the procedure prescribed by management. Management presided and took notes for the minutes. There is no evidence of any employee initiative at work either in originally creating or in continuing the procedure.

Ampex relies on decisions holding that provision by the employer of various types of clerical assistance and other conveniences to particular labor organizations was mere cooperation which did not amount to domination or support. We have examined these cases and find that the organization involved in each had some reasonable claim to being an independent entity composed of employees and distinct from management. Not so here, and we deem the cases inapplicable.[6]

2. *Rejection of employer's offer of partial settlement.*

The complaint alleged that the discharges of Earnest, Ebel, and Betten in July and of four other employees August 19 were discriminatory and unfair labor practices. It also charged the 8(a)(2) unfair labor practice just discussed.

Ampex made a motion before the trial examiner that the Earnest, Ebel, and Betten charges be dismissed because Ampex had offered to settle those three and the General Counsel had rejected the offer. Such dismissal is said to be appropriate in order to implement a provision of the administrative procedure act requiring an

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[6] *Modern Plastics Corporation* v. *N.L.R.B.* (6th Cir., 1967), 379 F2d 201; *Federal-Mogul Corp., Coldwater Dist. Ctr. Div.* v. *NLRB* (6th Cir., 1968), 394 F2d 915; *Chicago Rawhide Mfg. Co.* v. *Natl. Labor Rel. Bd.* (7th Cir., 1955), 221 F2d 165; *Hotpoint Co.* v. *NLRB* (7th Cir., 1961), 289 F2d 683; *N.L.R.B.* v. *Newman-Green Inc.* (7th Cir., 1968), 401 F2d 1, 4; *Wayside Press* v. *National Labor Relations Board* (9th Cir., 1953), 266 F2d 862.

agency to give an opportunity for submission and consideration of offers of settlement.[7]

It appears that counsel for all parties had discussed settlement before the hearing. Ampex offered settlements with respect to the charges concerning Earnest, Ebel, and Betten, including reinstatement and full back pay, but, presumably, not including entry of a cease and desist order. General Counsel was willing to settle the entire case on the basis of offers of reinstatement and back pay for all seven, and withdrawal of the 8(a)(2) charge, as consented to by the charging party.

We do not think the administrative procedure act requires consideration by the examiner or the board of an offer of settlement in an unfair labor practice proceeding. 29 U.S.C. §153(d) gives the General Counsel final authority on behalf of the board in respect to the prosecution of complaints before the board. The independent authority thus given him is substantial.[8] On this record Ampex was given an opportunity for submission and consideration of its partial offer of settlement by trial counsel for the General Counsel, and in our opinion the requirement of the administrative procedure act relied on was fulfilled.

In the colloquy before the trial examiner, counsel for General Counsel gave as a reason for refusing to settle the three cases that he would then be unable to use evidence about those three discharges to help prove the discriminatory character of the other four. Although it may be true, as now argued by Ampex, that counsel was mistaken about the limitations he would be under, Ampex trial counsel did not at the time suggest willing-

[7] 5 U.S.C. §554(c).

[8] *International Union of Elec., Radio, etc.* v. *N.L.R.B.* (D.C. Cir., 1960), 289 F2d 757, 761; *Division 1267, Amal. Ass'n of Street, El. Ry., etc., Emp.* v. *Ordman* (D. S. Cir., 1963), 320 F2d 729; *Frito Company, Western Division* v. *N.L.R.B.* (9th Cir., 1964), 330 F2d 458, 464.

ness that the proof be so used, and we do not view the rejection of the offer as arbitrary, even if based on a mistaken view of the law.

Ampex relies on *Michigan Consolidated Gas Co.* v. *Federal Power Com'n* (D.C.Cir., 1960), 283 F2d 204. *Michigan Consolidated* involved an apparently complex question concerning fulfillment of requirements of natural gas service in the public interest. The commission had refused to consider a settlement proposal of considerable complexity which the court found promised to fulfill the commission's announced objective better than the course ordered by the commission. The court directed that on remand the proposal must be considered, but did not require that it be accepted. We do not consider *Michigan Consolidated* apposite here.

3. *Antiunion motivation for discharge.*

Because of the position of Ampex, discussed in part 2, above, Ampex offered no proof in answer to the claims concerning the Earnest, Ebel, and Betten discharges. Ampex argues here that there is no evidence that management had knowledge of the union activities of those employees and hence no evidence of an antiunion motivation for their discharges. There was some evidence that Betten had discussed union matters in proximity to a foreman who was watching him. Other direct evidence that interest in the union was made known to management was indeed slight. We conclude, however, that such knowledge could be properly inferred from all the circumstances, including timing, the irrational motivation to which the discharges must be attributed if the motivation was not antiunion, the references to the discharges as getting rid of the troublemakers, and the peculiarities of the procedures used, all as detailed in the trial examiner's decision. In Betten's case, moreover, a supervisor predicted Betten would be fired, set up a situation where Betten would be likely to give a colorable excuse, and followed through.

4. *Concerted activities of Earnest and Ebel.*

The board found that in discharging Earnest and Ebel, Ampex not only sought to discourage union membership, but also to discourage participation in concerted activities for mutual aid or protection. They acted together at the various stages of their quest for reclassification. Ampex would treat their activity as individual efforts, only fortuitously simultaneous. We think the board could properly find it joint and mutual.

5. *Overbreadth of order.*

The board's order, in subparagraphs 1, (a),(b), and (c) requires Ampex to cease and desist from practices corresponding to the unfair labor practices found. Ampex objects to the catchall subparagraph (1)(d) "In any other manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act." The point is valid.[9]

The board's order will be modified by deleting subparagraph (1)(d) and as so modified will be enforced. The board is allowed its costs on appeal.

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[9] *National Labor Rel. Bd.* v. *Express Pub. Co.* (1941), 312 U.S. 426, 433; *N.L.R.B.* v. *Thompson Ramo Wooldridge, Inc.* (7th Cir., 1962), 305 F2d 807, 810.

UNITED STATES COURT OF APPEALS
For the Seventh Circuit

Chicago, Illinois 60604
Monday, June 14, 1971

Before

Hon. Walter J. Cummings, Circuit Judge
Hon. Thomas E. Fairchild, Circuit Judge
Hon. Wilbur F. Pell, Jr., Circuit Judge

National Labor Relations Board, Petitioner, vs. Ampex Corporation, Respondent.	Petition for Enforcement of an Order of the National Labor Relations Board.
No. 18181	

Upon the stipulation of counsel, filed June 7, 1971, the judgment heretofore entered on May 19, 1971 is vacated and the judgment attached to the stipulation is settled and entered this date as the judgment of this court.

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

National Labor Relations Board, Petitioner, v. Ampex Corporation, Respondent.	No. 18181

STIPULATION TO REOPEN AND
ENTER MODIFIED JUDGMENT
(Filed Jun 7 1971)

To the Honorable, the Judges of the United States Court of Appeals for the Seventh Circuit:

It is hereby stipulated and agreed that the Judgment entered in the above-captioned matter be reopened and

modified to conform to the order of the Court, dated April 22, 1971, and that a new Judgment be entered as set forth in the attachment hereto.

/s/ Harry Sangerman
Harry Sangerman, Attorney
for Ampex Corporation

/s/ Marcel Mallet-Prevost
Marcel Mallet-Prevost
Assistant General Counsel
National Labor Relations Board

Dated: 6/3/71

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

National Labor Relations Board,
Petitioner,

v.

Ampex Corporation,
Respondent.

No. 18181

JUDGMENT

Before: Fairchild, Cummings and Pell, Circuit Judges

This Cause came on to be heard upon the application of the National Labor Relations Board to enforce its order dated December 7, 1967, directed against the above-named Respondent, its officers, agents, successors and assigns. The Court heard argument of respective counsel on November 4, 1970, and has considered the briefs and transcript of record filed in this cause. On April 22, 1971, the Court being fully advised in the premises handed down its opinion granting enforcement of the Board's said order as modified. In conformity therewith, it is hereby

Ordered And Adjudged by the Court that Ampex Corporation, Elk Grove Village, Illinois division, its officers, agents, successors and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in District No. 8, International Association of Machinists and Aerospace Workers, AFL-CIO, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees because of their concerted or union activities, or in any other manner discriminating in regard to their hire or tenure of employment or any term or condition of employment.

(b) Dominating or interfering with the administration of The Communications Committee or with the administration of any other labor organization of its employees, and contributing support to The Committee or to any other labor organization of its employees.

(c) Recognizing or in any manner dealing with The Committee, or any reorganization or successor thereof, as a representative of any of its employees for the purpose of dealing with the Respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of work.

2. Take the following affirmative action which the Board has found will effectuate the policies of the Act:

(a) Withdraw all recognition from the Commission as a representative of any of its employees for the purpose of dealing with the Respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of work, and completely disestablish The Committee as such representative.

(b) Offer to Helen Earnest, Virginia Ebel, and Donald Betten immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights and privileges and make them whole for any loss of pay suffered as a result of the discrimination against them.

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all pay-

roll records, social security payment records, timecards, and all other records necessary to analyze the amount of backpay due under the terms of this Judgment.

(d) Notify any of the above-named employees if presently serving in the Armed Forces of the United States of their rights to full reinstatement upon application in accordance with the Selective Service Act, as amended, after discharge from the Armed Forces.

(e) Post at its Elk Grove Village, Illinois, plant copies of the attached notice marked "Appendix." Copies of said notice, on forms provided by the Regional Director for Region 13, (Chicago, Illinois) after being signed by Respondent's representative, shall be posted by Respondent and be maintained by it for 60 consecutive days thereafter; in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by other material.

(f) Notify the said Regional Director, in writing, within 10 days from the date of this Judgment, what steps Respondent has taken to comply herewith.

It Is Further Ordered that costs shall be taxed against the Respondent.

Dated:

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to a Judgment of the United States Court of Appeals enforcing as modified an Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL NOT discourage membership in District 8, International Association of Machinists and Aerospace Workers, AFL-CIO, or in any other labor organization of our employees, by discharging or refusing to reinstate any of our employees because of their concerted or union activities, or any other manner discriminating in regard to their hire or tenure of employment or any term or condition of employment.

WE WILL NOT dominate or interfere with the administration of the Committee, or with the administration of any other labor organization of our employees, nor will we contribute support to The Committee or to any other labor organization of our employees.

WE WILL NOT recognize or in any manner deal with The Committee, or any reorganization or successor thereof, as a representative of any of our employees for the purpose of dealing with us concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of work.

WE WILL withdraw all recognition from The Committee as a representative of any of our employees for the purpose of dealing with us concerning grievances, labor disputes, wages, rates of pay, hours of employment, and other conditions of work, and completely disestablish The Committee as such representative.

WE WILL offer Helen Earnest, Virginia Ebel, and Donald Betten immediate and full reinstatement to

their former or substantially equivalent positions without prejudice to seniority or other rights and privileges and make them whole for any loss of pay suffered as a result of the discrimination against them.

WE WILL notify any of the above-named employees if presently serving in the Armed Forces of the United States of their right to full reinstatement upon application in accordance with the Selective Service Act, as amended, after discharge from the Armed Forces.

All our employees are free to become or remain, or to refrain from becoming or remaining, members of the union named herein or any other union.

AMPEX CORPORATION

(Employer)

Dated ..... By .....
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 881 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Illinois, 60604, Telephone 828-7570.